

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR PLANNING ACT

Mr. ALEXANDER. Mr. President, I want my Senate colleagues to know I have decided to join Senators CARPER, CHAFEE, and GREGG as cosponsors of the Clean Air Planning Act. I have studied major clean air proposals before the Senate and have concluded that this legislation is the best balanced proposal because it would reduce pollution emitted by powerplants while permitting the maximum possible economic growth and energy efficiency. I hope other colleagues will come to the same conclusion as the debate about how to clean America's air becomes front and center.

Cleaner air should be the urgent business before the Senate. The condition of the air in my State of Tennessee is completely unacceptable to me and ought to be completely unacceptable to every Tennessee citizen.

My home is 2 miles from the boundary of the Great Smokey Mountains National Park, which has also become the Nation's most polluted national park. Only Los Angeles and Houston have higher ozone levels than the Great Smokies. Only a few miles away from the Great Smokies is Knoxville, which is on the American Lung Association's list of top 10 cities with the dirtiest air. Memphis and Nashville—our two largest cities—are on the top 20 list. Chattanooga barely escapes the top 25 list.

This polluted air is damaging to health, especially that of the elderly, small children, and the disabled. It ruins the scenic beauty of our State, which is what most of us who grew up in Tennessee are proudest of. And it is damaging to our economic growth.

Clean air is the No. 1 priority of the Pigeon Forge Chamber of Commerce. Business leaders there at the foot of the Smokies know that visitors are not going to drive 300 miles and spend their tourism dollars to see smoggy mountains.

The mayors of our major cities in Tennessee also understand that cleaner air means better jobs. They know that if our metropolitan areas are not able to meet Federal standards for clean air, new restrictions will make it harder for auto parts suppliers and other industries to expand and bring good new jobs into our State. The mayors also know our cities cannot comply with the Federal standards without some help. Tennessee's clean air problem requires a national solution.

Much of our air pollution is our State's own doing—specifically, that which comes from emissions from cars and trucks and from the coal powerplants of the Tennessee Valley Authority. But as much as a third of our air pollution comes from outside Tennessee. Winds blow pollution south from the industrial Midwest and north from the South toward the highest mountain range in the eastern United States, the Great Smokies. And when the wind gets to the mountains, the pollution just hangs there, which is an additional reason the Great Smokies and the Knoxville metropolitan area have such a problem.

There are three major clean air proposals before the Senate. I have studied each to determine which would be the best for Tennessee and for our Nation.

The most important of these is President Bush's Clear Skies legislation. The President deserves great credit for putting clean air at the top of the agenda, as only a President can do, because his proposal relies upon market forces instead of excessive regulation. It limits costly litigation and creates certainty.

In addition, the President's proposal would take significant steps forward in reducing sulfur, nitrogen, and mercury pollutants.

Last year, during my campaign for the Senate, I made clean air a priority and often said the President's proposal is an excellent framework upon which to build meaningful clean air legislation but that it does not go far enough, fast enough to solve Tennessee's problems. The Clear Skies legislation is a good start, but it does not go far enough, fast enough in my back yard.

I believe the Clean Air Planning Act, which I am cosponsoring, is the best proposal for Tennessee and for our Nation. Here are the reasons:

First, the Clean Air Planning Act adopts the market-based framework of the President's proposal so that it also reduces regulation, litigation, and creates certainty.

Second, it would take our country farther faster in reducing three major pollutants: sulfur, nitrogen, and mercury.

Third, it extends its market-based framework of regulation to carbon dioxide with a modest requirement that by 2013 the carbon emitted by powerplants would be at 2001 levels, causing a 3- to 5-percent reduction in the overall United States projected level in 2013.

Fourth, the Clean Air Planning Act, of which I am a cosponsor, does not weaken existing laws in important ways that the Clear Skies proposal would. Here are the two ways the Clear Skies proposal does that:

First, Clear Skies would prevent Tennessee, for 10 years, from going in to court to force another State to meet the Federal clean air standards. Since pollutants blowing in from other States is one of our greatest problems, this is a legal right we do not want to give up.

Second, the Clear Skies proposals would remove the right of the National Park Service to comment on the effect of powerplant emissions more than 30 miles away from a national park. Again, since much of the pollution in the Smokies is blown in from more than 30 miles away, this is a review that ought to be considered.

While the President's proposal, in my judgment, does not go far enough, the other major proposal before this Senate goes too far too fast. It is a proposal by Senator JEFFORDS, the Clean Power Act, which requires carbon emissions of the utilities sector to be at 1990 levels by the time we reach the year 2009.

I believe this proposal would cost so much to implement that it would drive up the cost of electricity and drive offshore thousands of good jobs. It would significantly damage our economy and our future.

There is also the Climate Stewardship Act sponsored by Senators MCCAIN and LIEBERMAN which would regulate carbon emissions produced by the entire economy and does so on a very rapid timetable.

I would not support these two proposals because I am not convinced they are based upon good science. It would be foolish to take huge, expensive steps to solve problems which we do not know exist. But it is also unwise to completely ignore what we do know.

My reading of the Report of the National Academy of Sciences on Global Warming and my discussion with scientists, especially those at Oak Ridge National Laboratory, have persuaded me that some additional steps must be taken to limit carbon dioxide emissions.

The Senate is working on clean air legislation that will likely govern our production of energy and the accompanying pollution for the next 10 to 15 years. It would be unwise to do nothing, just as it would be unwise to do too much.

The President himself has recognized the seriousness of problems with carbon emissions and has initiated a voluntary program of emission reduction which is having some success. But for the next 10 to 15 years, I believe we should take the next step and institute modest, market-based caps.

It is important to recognize that our Clean Air Planning Act applies only to carbon produced by powerplants, not that produced by the entire economy. In fact, it would permit powerplants to purchase credits from other sectors of the economy which can prove to be a substantial benefit and income for agriculture.

There is still much to learn about the effect of human activity on global warming, specifically that caused by the production of carbon dioxide. I will continue to monitor the science as it is presented and make my judgment at the time based upon what I believe to be good science.

Senator CARPER has asked the Environmental Protection Agency to review our proposed legislation to determine its effect on the health of Americans, and its cost. According to the EPA analysis prepared in November of 2002—last year—the Clear Skies Act would prevent 11,900 premature deaths, 7,400 chronic bronchitis cases, and 10,400 hospital visits. Our Clean Air Planning Act would prevent 17,800 premature deaths from air pollution, 5,900 more people annually than under Clear Skies, and save \$140 billion in health care costs, \$50 billion more than Clear Skies.

The EPA internal analysis from November of 2002 also estimates that Clear Skies would cost electric utilities \$84.1 billion in the year 2010, while our legislation would cost \$86.2 billion in the year 2010. In 2020, Clear Skies would cost \$100.9 billion. Our legislation would cost \$103.4 billion. In short, according to that EPA internal analysis, our legislation does a better job of improving health and reducing health care costs and would cost only slightly more.

Last week, before the Senate Energy Committee, we discussed again the emergency that is being caused by a shortage of natural gas and the consequence of higher prices. Chemical companies in America are reducing salaries and pushing jobs overseas. Americans living in homes heated by natural gas should expect a 30-percent increase in their bills this winter in our State.

During the last week in July, the Senate will have the opportunity to consider both the natural gas crisis and the urgent need for cleaner air. We will be debating the Energy bill which has been reported by our committee. The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low-cost energy and, at the same time, a cleaner environment.

Mr. President, as I said, during the last week in July the Senate will have an opportunity to consider both the natural gas crisis and the need for cleaner air. We will be debating the Energy bill which has been reported by our committee. We have worked hard on that bill, both parties. We believe we have a good bill.

The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low cost energy and at the same time a cleaner environment. But for us to avoid facing repeated winters with higher gas prices, to avoid keeping jobs from moving overseas, and to keep our air clean and healthy, we are going to have to face some tough decisions and make different choices than we have so far been willing to make.

We need to explore for natural gas in Alaska and other offshore areas in the United States and build a new pipeline to bring it south. We need to shed our reluctance to use nuclear powerplants

that we invented and join France and Japan and the rest of the world in expanding our use of this clean form of energy.

We need to advance our understanding and use of clean coal technologies, especially coal gasification. Coal produces one-half of our electricity and will continue to produce much of it for the foreseeable future.

We should increase the use of other renewable forms of energy, including solar, ethanol, and wind power. We need to get serious about sensible conservation practices, such as using alternatives to idling truck engines when truckers are stopped for a break.

I am proud to be the principal sponsor of President Bush's hydrogen car proposal which offers great promise in the long term to reduce our dependence on foreign oil and to clean our air because its fuel uses no oil or gasoline and its only emission is water.

In summary, President Bush has made a good beginning by placing clean air on the agenda as only a President can and by offering a framework to build a strong proposal. But with respect, he hasn't gone far enough, fast enough. On the other hand, my colleagues, Senators MCCAIN, LIEBERMAN, and JEFFORDS, go too far, too fast, relying on unsettled science to put controls on our economy that are unjustified and that would cost so much that thousands of jobs would go overseas.

The Clean Air Planning Act, which I cosponsor, is, in my judgment, the best balanced solution. It has the advantages of the market-based approach suggested by the President. It goes further faster than the President's proposal in reducing pollutants from sulfur, from nitrogen, and from mercury. It places modest controls on carbon, and it does not weaken the existing clean air law.

Devising a plan for maintaining the proper balance of clean air, efficient energy, and good jobs for the next 10 to 15 years deserves the urgent attention of the Senate. I look forward to being an active participant in the debate.

ADMINISTRATIVE DETENTIONS AND RIGHT TO DUE PROCESS

Mr. BINGAMAN. Mr. President, we in America firmly believe that what distinguishes our country in the history of the world is our commitment to individual liberty and freedom. At the bedrock of a free society is the obligation that the Government takes on to afford individuals certain legal protections, the most basic of which is the freedom from incarceration unless the Government can prove that you have committed a crime.

Today we are witnessing the abandonment by this current administration of our historic commitment to this most basic legal protection. The core element of due process law is the requirement that if individuals are taken into custody by the Government, then within some reasonable time,

they will be advised of the crimes of which they are accused. They will be charged with those crimes and they will be prosecuted.

This administration, working through the Justice Department, headed by Attorney General Ashcroft, and the Pentagon, headed by Secretary of Defense Rumsfeld, has taken the position that as to many individuals it now has in custody, no such legal requirements attach.

It is my view that regardless of whether the person in custody is an American citizen or a foreigner, regardless of where he or she is apprehended, and regardless of the Government's preconceptions about his or her guilt, that person should be entitled to some reasonable standard of due process. Secrecy and disregard for the rule of law are not the ideals upon which a free and open society are based.

To demonstrate the basis for my concern, I would like to describe to the Senate some of the actions that have been taken in recent months by the administration. These actions fall into three different categories. There are those that affect immigrants. There are those that affect so-called material witnesses. There are those that affect so-called enemy combatants.

Let me start first with immigrants. In the case of immigrants, the inspector general in the Department of Justice has recently documented the abusive treatment of many immigrants by the FBI and the Justice Department in the period since 9/11. According to the IG's recent report, many immigrants were detained following 9/11 even though the FBI had no evidence that they were connected to terrorism. The report states that some detainees did not receive their so-called charging documents for more than 9 months after they were arrested. Even after they were charged, many detainees were held in "extremely restrictive conditions of confinement" for "weeks and months with no clearance investigation being conducted."

The Attorney General would have us accept with no dissent that extraordinary times require extraordinary measures, even if it is at the expense of individual civil liberties. In my view, the fact that these immigrants were detained on alleged immigration violations does not permit the Government to totally disregard their rights. While the 9/11 detainees were entitled to be represented by an attorney at their own expense, the inspector general found in many cases that the Government made it very difficult for detainees to obtain an attorney or to speak with that attorney on a regular basis.

I hope the newly established Department of Homeland Security, which now has jurisdiction over immigration violators, will follow the inspector general's recommendation that it ensure that "detainees have reasonable access to counsel, legal telephone calls, and visitation privileges consistent with their classification."